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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,622	04/25/2005	Gu-Ha Lee	P5091/LGH	4734

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EXAMINER

PAYER, HWEI SIU CHOU

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/532,622

Applicant(s)

LEE, GU-HA

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15, 17, 18 and 20-28 is/are rejected.
- 7) ☒ Claim(s) 16 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4-25-2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **Detailed Action**

The preliminary amendment filed on April 25, 2005 has been entered.

### **Drawing Objection**

The drawings are objected to because reference element "E1" has been used to designate two different element as a protrusion formed around the cutter (see Fig.3) and a protrusion formed in a cutter receiving groove (see Fig.5).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### **Objection to the Specification**

The disclosure is objected to because of the following informalities:

(1) On page 6, lines 29-31 do not agree with Fig.3. The protrusion E1 shown in Fig.3 becomes thinner rather than thicker as it goes toward the back of the edge of the cutter.

(2) On page 7, line 2, "23b" should read --23a--.

(3) On page 8, line 5 does not agree with Fig.5. The angle "0 " shown in Fig.5 is an obtuse not an acute angle.

(4) On page 8, line 17 does not agree with Fig.9. Specifically, the cutter 33 does not have a protrusion E2. The protrusion E2 is protruded at the back of the cutter receiving groove G2.

(5) On page 9, line 4 does not agree with Fig.5. The angle "0 " shown is an obtuse and not between 68 degrees and 75 degrees.

(6) On page 9, line 11 does not agree with Figs.7 and 9. The protrusions E1,E2 are not on the cutter 30.

Appropriate correction is required.

### **Claims Objection**

Claims 15-28 are objected to because of the following informalities:

(1) In claim 15, line 3, after "portion", --thereof-- should be added.

(2) In claim 19, line 1, "pack-opener" should read --pack opener--.

Appropriate correction is required.

### **Claims Rejection - 35 U.S.C. 112, first paragraph**

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 17, 18, 20, 21, 23 and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

(1) In claims 17 and 18, "a protrusion formed on the cutter" has no support from the original specification.

(2) Claims 20 and 21 contradict with claim 17. Claim 17 calls for the protrusion formed on the cutter while claims 20 and 21 recite the protrusion being formed on a cutter receiving groove of the opener body.

(3) In claims 23 and 24, the claimed acute angles are confusing. The vertical axis of the cutter with respect to an imaginary straight line axis defining an advancing direction has only one angle rather than two angles "0, 0". Referring to Fig.5, the vertical axis "X1" of the cutter is at an acute angle "0" with respect to an imaginary straight line axis "X2" that defines an advancing direction. Angle "0" is not an acute angle, and it is not in the advancing direction.

### **Claims Rejection - 35 U.S.C. 102(b)**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 15, 23, 24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Tipp (U.S. Patent No. 5,524,348).

Tipp shows a package opener as claimed. Specifically, the cutting resistance reducing means is embodied by a predetermined fixed angle of the cutter (18). The predetermined fixed angle of the cutter (18) with respect to the sealed edge (44) of the package (40) to be inserted into the opening part (17) is set to be between 68 and 75 degrees. In addition, the opener has slippage preventing means (i.e. the concavo-convex part on the top side of the opener, see Figs. 1 and 2), and the front surface of the opener body is fully capable of placing an advertisement as claimed.

3. Claims 15, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Beermann (U.S. Patent No. 4,134,206).

Beermann shows an opener as claimed. Specifically, the cutting resistance reducing means is embodied by a predetermined fixed angle of the cutter (17). The vertical axis of the cutter (17) is at an acute angle with respect to an imaginary straight line axis that define an advancing direction into the guide space (14) through the opening part (15a) as claimed. The cutting resistance means also comprises laterally separating means constructed to have the opener body become gradually thicker as it goes toward the back edge of the cutter (see Fig.6).

#### **Claims Rejection - 35 U.S.C. 103(a)**

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beermann (U.S. Patent No. 4,134,206).

Beermann's opener as set forth shows all the claimed structure. In addition, Beermann specifically mentions the guide space (14) cannot come into contact with portion of the body, especially the fingers (see column 3, lines 55-57).

To select a safety range such as 0.1 mm to 2 mm for Beermann's guide space (14) for protecting user's finger would have been obvious to one having ordinary skill in the art, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233 (CCPA 1955).

3. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tipp (U.S. Patent No. 5,524,348).

Tipp's package opener as set forth shows all the claimed structure except for the location of the slippage preventing means. Specifically, Tipp's slippage preventing means is on the top surface rather than on the rear surface of the opener.

However, the claimed location of the slippage preventing means is not patentably distinct over Tipp, since the location of the slippage preventing means depends more upon the choice of the manufacturer than on any inventive concept. Further, it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70 (CCPA 1950).

4. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tipp (U.S. Patent No. 5,524,348) in view of Hanna (U.S. Patent No. 5,357,679).

Tipp's package opener as set forth shows all the claimed structure. In addition, a magnet (see column 3, lines 51-53) may be secured to one side of the opener body (12).



However, Tipp does not explicitly mention the magnet being "inside" the opener body.

The claimed limitation is not patentably distinct over Tipp because as long as the magnet is capable of performing the function of fastening the opener to a metal surface for convenient access, the exact location of the magnet, whether it is on or inside the opener body, is deemed to be an obvious matter of personal preference.

#### **Indication of Allowable Subject Matter**

1. Claims 16 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and to overcome the objections as set forth.
2. Claims 17, 18, 20 and 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### **Prior Art Citations**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ireland, McCracken, Sherman, Casteel et al., Holler, De La Cruz, Huang and Domenico are cited as art of interest.

### Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for official communications and 571-273-4511 for proposed amendments.

H Payer  
June 5, 2006

*Hwei-Siu Payer*  
Hwei-Siu Payer  
Primary Examiner